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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/717,042	09/20/1996	IGOR PALLEY	30-3744CIP	6496

7590 11/04/2002

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AKL

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/717,042	PALLEY ET AL.
	Examiner	Art Unit
	Niki M. Eloshway	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 August 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1, 3-66 is/are pending in the application.

4a) Of the above claim(s) 12,48-50 and 54-66 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-11,13-47 and 51-53 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restriction***

1. Claims 12, 48-50 and 54-66 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected species. Election was made without traverse in Paper No. 11.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-6, 8, 20-28, 30, 47, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of MacDonald et al. (U.S. 3,822,807). Sacks discloses the claimed invention except for the blast mitigating material. MacDonald et al. teach that it is known to provide a container with foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the foam of MacDonald et al., in order to prevent a rise in pressure within the container.

Sacks teaches a container set forth in col. 1 line 43 through col. 2 line 23. The bands of Sacks can be made of SPECTRA, as set forth in col. 1 lines 33-42. This SPECTRA material is the same material used in applicant's invention, and therefore has the same characteristics.

4. Claims 10, 11, 13-19, 33-43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of MacDonald et al. (U.S. 3,822,807) and Lewis (U.S.

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0,674,009). Sacks discloses the claimed invention except for the blast mitigating material and except for the strips of material forming bands. MacDonald et al. teach that it is known to provide a container with foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the foam of MacDonald et al., in order to prevent a rise in pressure within the container.

Lewis teaches that it is known to provide a container, made of three bands, wherein the first and second bands form tubes (see elements B and C). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Sacks with the first and second strips forming bands, as taught by Lewis, in order to protect the entire inner container, including the bottom wall thereof.

5. Claims 1, 3, 4, 7, 9, 20, 23, 27, 29, 31, 47 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks in view of Gettle et al. Sacks discloses the claimed invention except for the blast mitigating material. Gettle et al. teach that it is known to provide a container with aqueous foam (see line 11 of the Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the aqueous foam of Gettle et al., in order to attenuate pressure waves.

6. Claims 32, 33, 35, 38, 42, 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks in view of Gettle et al. and Lewis. Sacks discloses the claimed invention except for the blast mitigating material and except for the strips of material being bands. Gettle et al. teach that it is known to provide a container with aqueous foam (see line 11 of the Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the aqueous foam of Gettle et al., in order to attenuate pressure waves.

Lewis teaches that it is known to provide a container, made of three bands, wherein the first and second bands form tubes (see elements B and C). It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to provide the modified container of Sacks with the first and second strips forming bands, as taught by Lewis, in order to protect the entire inner container, including the bottom wall thereof.

***Response to Arguments***

7. Applicant's arguments filed August 27, 2002 have been fully considered but they are not persuasive. Applicant argues that "Sacks fails to teach a collapsible container or a container of blast resistant material; rather Sacks teaches a protective cover for a standard, non-collapsible container." The invention of Sacks is considered a container because it is capable of enclosing an article. The invention of Sacks is made of blast resistant material because it is made of the same material as disclosed in the present application.

8. Sacks does teach a band of material. Specifically, in col. 2 lines 4-7, Sacks teaches a strip of material wound around with its ends connected together.

9. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-

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MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Ełoszway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Ełoszway/nme  
Patent Examiner  
November 1, 2002



LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
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